**Sector Study to guide Negotiations on Energy Services under the Protocol on Trade in Services**

**Terms of Reference**

**February 2024**

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# Introduction

The African Continental Free Trade Area (AfCFTA) is one of the flagship projects of the African Union Agenda 2063 and is expected to be a key driver for Africa to realise continental structural transformation and industrialisation, as envisaged in the AU Agenda 2063’s shared roadmap for inclusive and sustainable growth for Africa.

The Agreement establishing the AfCFTA was signed by forty-four (44) African countries on 21 March 2018 in Kigali, Rwanda. The Agreement entered into force on 30 May 2019, following the necessary number of 22 ratifications. On 1 January 2021, trading under the AfCFTA was launched. As of November 2023, the AfCFTA Agreement has been signed by fifty-four (54) African countries and ratified by forty-seven (47) countries.

Trade in services liberalisation is governed by the Protocol on Trade in Services, one of the first three Protocols signed into law in March 2018 as part of the AfCFTA Agreement. The Protocol adopts a hybrid approach to liberalization, with commitments being undertaken by State Parties through Schedules of Specific Commitments on the one hand, and broad regulatory frameworks for cooperation on the other. The Protocol provides for progressive liberalisation of trade in services through successive rounds.

At its 31st Ordinary Session, the African Union Summit adopted five (5) priority services sectors (Business Services; Communication Services; Financial Services; Transport Services and Tourism Services to be the subject of the first round (round 1) of the services liberalisation agenda, with negotiations on the seven (7) remaining sectors to begin afterwards. The AfCFTA organ responsible for negotiation and implementation of the provisions of the Protocol is the Committee on Trade in Services. The negotiations of the first five sectors to be liberalised (priority sectors) have been conducted under the auspices of the Committee on Trade in Services. To date, twenty-two (22) Schedules of Specific Commitments (SSCs) have been finalised in the negotiations and adopted by the African Union Extraordinary Assembly in November 2022.

While the negotiation of the first round of services liberalisation continues, work on the remaining seven sectors will start with generation of knowledge and mutual understanding of the issues in each sector before the launch of negotiations in the sectors, which is expected to commence in 2024. The Trade in Services Division of the AfCFTA Secretariat intends to commission the preparation of sector studies to inform these upcoming negotiations.

The current assignment covers the sector study for **Energy Services** which are part of the seven remaining sectors**.** The General Agreement on Trade in Services (GATS) of the World Trade Organization (WTO) also includes provisions for trade in Energy Services.

Energy is an essential input to economic activity, with access to reliable and affordable energy supply being fundamental for social and economic development. Services play a key role in the production, transformation, transportation, distribution and sale of energy sources (i.e., petroleum, natural gas, coal, nuclear energy, renewable energy and electricity).

Energy services may encompass services supplied in relation to upstream activities (such as exploration and extraction, as well as related construction services), transportation and transmission of energy, as well as downstream activities, including those relating to the commercialization and supply of energy to the final consumer.

Energy stands as a crucial element in driving economic operations, and having dependable and cost-effective energy sources is fundamental for the progress of both social and economic advancement. The provision of services plays a pivotal role across various stages of energy processes, covering production, transformation, transportation, distribution and sale of energy of diverse energy sources like petroleum, natural gas, coal, nuclear energy, renewable energy, and electricity.

The approach will follow previous sector studies which have been conducted for Round 1 of the AfCFTA TiS negotiations, for negotiations under Regional Economic Communities (RECs), and for the WTO GATS negotiations during the Doha Round, respectively.

# Objectives of the consultancy

The overall objective of the sector study is **to provide economic, legal, and political background for African TiS officials** to effectively negotiate specific commitments and regulatory frameworks for Energy services.

The study aims to serve two purposes:

1. Present the status of Energy services in relevant RECs and selected Member States, including any relevant trends or prospects for growth of the industry/sector;
2. Provide a basis for State and non-State Parties to fully understand the scope of the sector, the importance of liberalisation in the various subsectors which will inform the offers and requests that might address regulatory barriers in the sector, and
3. Spotlight the importance of the sector and its contributions to the economy, generating jobs, and inclusivity dimensions, therefore showing where intra-African investments can flow into the sector.

# The Assignment

* 1. The AfCFTA Secretariat would like to engage the services of consultants to develop the sector study on **Energy services**.

# Scope of Work

The principal scope of work is **to provide economic, legal, and political background for African TiS officials** to effectively negotiate specific commitments and regulatory frameworks for Energy services.

The study is specifically expected to:

* To provide an overview of the Energy services sector in Africa, including its size, scope, contribution, economic importance and intersection with other sectors.
* To spotlight the importance of the sector and its contributions to the economy, generating jobs, and inclusivity dimensions, therefore showing where intra-African investments can flow.
* To provide an overview of the existing regulatory environment for the sector across African countries, based on relevant existing information (Trade in Services regulatory audits).
* To identify existing policy initiatives in Africa and beyond that relate to the sector, including trade agreements, regulations, and standards.
* To assess the opportunities and challenges for African countries in the sector, including market access, competitiveness, and regulatory issues.
* To provide policy recommendations for the AfCFTA negotiations, including proposals for liberalizing trade in the sector and addressing regulatory barriers.
* To provide policy recommendations for regulating the sector domestically, including proposals for improving the quality and accessibility of services, promoting innovation, and protecting consumers.
* To provide elements that may be considered for the development of regulatory frameworks to support liberalisation in Energy services.
* **Note: The scope for this study should cover at least 30 AU Member States**

In this context, the current assignment builds on previous technical-analytical work conducted in support of the AfCFTA TiS negotiations. This includes:

* The AfCFTA Agreement, the AfCFTA Protocol on Trade in Services, the Guidelines for Services Negotiations under the AfCFTA Protocol on Trade in Services, the Elements for Negotiating sectoral and cross-cutting regulatory frameworks under the AfCFTA Protocol on Trade in Services, and AfCFTA Mode 4 Paper: Definitions of common categories of natural persons.
* The General Agreement on Trade in Services (GATS).
* Sector studies for the five priority sectors under the AfCFTA TiS negotiations.
* Trade in Services regulatory audits with information about countries’ laws and regulations in Energy Services.
* Work done under RECs and other regions outside Africa.
* Other relevant documents such as the UNECA Assessing Regional Integration in Africa (ARIA) report on TiS, WTO Documents, reports on Energy services from UNECA, Afreximbank, UNCTAD, World Bank, etc.

# Tasks to be conducted

The study will be conducted using a combination of desk research and stakeholder consultations. It will be conducted in close coordination with the AfCFTA Secretariat Trade in Services Division. Effective and timely communication with the Secretariat as well as the ability to react to the Secretariat’s requests, sometimes at short notice, are indispensable for this assignment.

The desk research will involve a review of existing literature, reports, and data sources on the sector. The stakeholder consultations will involve interviews with relevant government officials, industry representatives, and other experts in the sector.

The following deliverables are expected from the study:

* A comprehensive report on the Energy services sector in Africa, including its economic importance, existing policy initiatives, opportunities and challenges, and policy recommendations for the AfCFTA negotiations on Trade in Services.
* A summary report highlighting the key findings and recommendations of the study, including elements to be considered for the development of regulatory frameworks to support liberalisation in Energy services (the Policy Brief).
* A presentation of the study findings and recommendations to relevant stakeholders during suitable official occasions, such as AfCFTA negotiation meetings (Committee on Trade in Services and relevant Sub-Committees) as well as related stakeholder events (all to be confirmed with the AfCFTA Secretariat).

# Expected Outputs and Timelines

It is noted that the tentative timeline planned by the Secretariat may be subject to change due to circumstances beyond the control of Expertise France or the Secretariat, in which case new timelines will be coordinated between Expertise France, the consultants and the Head of Division, TiS. The overall deadline is December 2024.

With reference to the foregoing activities, the specific outputs are summarised below.

| **Activity** | **Output or Deliverable** | **Timeline** |
| --- | --- | --- |
| Task 1: Inception report and draft outline | Inception Report | 3 days |
| Task 2: Desk research and first draft report | First draft report inclusive of:   * + - Overview of the sector (size, scope and economic importance. Identification of existing policy initiatives     - Overview of the existing regulatory environment     - Overview of liberalization commitments     - Analysis of classification of the sector under WTO     - Assessment of the opportunities and challenges for the sector | 12 days |
| Task 3: Stakeholder consultations and revisions to draft | Second draft report inclusive of:   * + - Development of policy recommendations     - Recommendations to regulate the sector domestically | 15 days |
| Task 4: Final report and summary report | Final report inclusive of:   * + - Preparation of Final Consolidated Report     - Preparation of Policy Brief | 10 days |
| Task 5: Presentation during relevant meetings | Presentation Slides based on final consolidated report | 10 days |
| Task 7: Backstopping Technical Assistance (on demand) | Specific outcomes to be determined | 10 days |

Period of assignment: From **01.03.2024** until **01.08.2024**.

# Reporting

The consultant will report to the Head of Division, Trade in Services and ultimately to the Director, DTIID.

# Personnel concept

The assignment can be conducted either by an individual expert or a group of experts.

The bidder is required to demonstrate that (s)he is suited to filling the position described, on the basis of his/her CV, the range of tasks involved and the required qualifications.

The below-specified qualifications represent the requirements to reach the maximum number of points.

**Team Leader**

**Tasks of the Team Leader**

* Provide technical support to the AfCFTA negotiations on Trade in Services in close collaboration with the AfCFTA Secretariat, as specified in Section 2.
* Manage communication with Expertise France and the AfCFTA Secretariat.
* Regular reporting in accordance with deadlines.

**Qualifications of the Team Leader**

* Education/training Graduate degrees in International Trade, Economics, or a related field with a focus on the Energy sector or a related field relevant to this assignment
* Language
  + - Fluency in English
    - Knowledge of another AU language (French, Arabic, Portuguese)
* General professional experience: 15 years of experience in conducting research and analysis on trade in services, with a focus on the Energy services sector.
* Specific professional experience
  + - 7 years of professional experience providing advisory services to relevant public sector entities such as Ministries, Regulators, and Culture Commissions and to private sector entities related to cross-border provision of Energy services.
    - 5 previous assignments including economic and policy analysis related to trade in services negotiations.
    - 3 previous assignments related to the AfCFTA or other regional trade agreements in Africa.
    - 2 previous assignments related to cross-border regulatory cooperation in services sectors.
* Leadership/management experience): 5 years’ professional experience as Team Leader or Manager of a company providing consultancy services.
* Regional experience: 5 previous assignments on Energy services covering 5 different African countries and 3 assignments on Energy services in other continents.
* Development Cooperation (DC) experience: 5 previous DC assignments

**Expert 1**

**Tasks of Expert 1**

* Provide technical support to the AfCFTA negotiations on Trade in Services in close collaboration with the AfCFTA Secretariat, as specified in Section 2.
* Provide specialized legal expertise in Energy sectors*,* as specified in Section 2.
* Work closely with the Team Leader to ensure timely delivery of the requested tasks.

**Qualifications of Expert 1**

* Education/training Graduate degree in law (JD/LL.M) with a focus on Energy sectors or a related field relevant to this assignment.
* Language Fluency in English; knowledge of other AU languages is an added advantage.
* General professional experience: 7 years of experience in all aspects of Energy sectors
* Specific professional experience
  + - 5 years of professional experience providing advisory services to relevant public sector entities such as Ministries, Regulators, Museums/Arts Councils/Film Schools/Sports Boards, related to the regulation of cross-border provision of Energy services.
    - 5 years of professional experience providing advisory services to companies in the creative industries sector and related private sector entities related to cross-border provision of Energy services and related industries regulation.
    - 3 years of professional experience related to the negotiation of cross-border regulatory cooperation frameworks in the context of Trade in Services
    - In-depth familiarity with preparatory work conducted on the Energy sectors as part of the AUC support to the AfCFTA process.
    - 3 peer-reviewed publications related to the laws and regulations of Energy services with a focus on African countries.
    - In-depth familiarity with preparatory work conducted on the Energy sectors as part of the AUC support to the AfCFTA process.
* Regional experience: 3 previous assignments on Energy service sectors covering 5 different African countries and 2 assignments on energy industry on other continents.
* Development Cooperation (DC) experience: 3 previous assignments

# Allocation of Days

| **Activity** | **Number of Working Days** |
| --- | --- |
| Task 1: Inception report and draft outline | 3 |
| Task 2: Desk research and first draft report | 12 |
| Task 3: Stakeholder consultations and revisions to draft | 15 |
| Task 4: Final report and summary report | 10 |
| Task 5: Presentation during relevant meetings | 10 |
| Task 7: Backstopping Technical Assistance | 10 |
| **TOTAL** | **60** |